

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

JUAN ANTONIO FLORES,

Defendant and Appellant.

B204130

(Los Angeles County  
Super. Ct. No. VA101398)

APPEAL from a judgment of the Superior Court of Los Angeles County, Beverly Reid O'Connell, Judge. Affirmed as modified.

William L. Heyman, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Steven D. Matthews and Shawn McGahey Webb, Deputy Attorneys General, for Plaintiff and Respondent.

---

## INTRODUCTION

Defendant Juan Antonio Flores challenges his automobile burglary conviction on the grounds the evidence is insufficient to support the verdict<sup>1</sup> and the trial court erred in calculating his presentence custody credits. We conclude substantial evidence supports defendant's automobile burglary conviction. We further conclude the court erred in calculating his presentence custody credits and modify the judgment accordingly. In all other respects, we affirm the judgment.<sup>2</sup>

## FACTUAL AND PROCEDURAL BACKGROUND

On June 21, 2007, at approximately 10:15 p.m., Maria Luisa Bayona (Bayona) parked her car on the street outside a nightclub. The windows of her car were intact and closed, and she locked the car's doors.

---

<sup>1</sup> Defendant was also charged and convicted of receiving stolen property (Pen. Code, § 496, subd. (a)). In bifurcated proceedings, defendant admitted he had suffered one prior serious or violent felony conviction under the "Three Strikes" law (*id.*, §§ 667, subds. (b)-(i), 1170.12) and had served two separate prison terms for felonies (*id.*, § 667.5, subd. (b)). Defendant was sentenced to an aggregate term of four years, or double the middle two-year term for burglary. The court stayed sentencing for receiving stolen property under Penal Code section 654 and struck the one-year prior prison term enhancement in furtherance of justice (*id.*, § 1385).

<sup>2</sup> Pursuant to *People v. Mooc* (2001) 26 Cal.4th 1216, defendant has requested us to examine the transcript of the in camera hearing conducted by the trial court after it determined defendant had demonstrated good cause to discover information in the arresting officer's personnel and administrative records pertaining to "dishonesty" and "the fabrication of probable cause." (Evid. Code, §§ 1043, 1045; *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.) We have reviewed the sealed record of the proceedings and conclude the trial court satisfied the minimum requirements in determining whether there was discoverable information, and no abuse of discretion occurred. (*Mooc, supra*, at p. 1229.)

As Police Officer Frankie Valle drove down the street over an hour later, he noticed defendant behind the car, reaching into the trunk. Officer Valle pulled up past defendant so he could watch him in the rearview mirror. A bicycle was on the ground near the car. Defendant continued to rummage through the trunk and appeared to remove some items. Defendant looked up, saw the patrol car, mounted his bicycle and rode away. Officer Valle followed defendant, lost him briefly and then detained him. Officer Valle searched defendant and found a pocket knife and several compact discs. He arrested defendant for committing automobile burglary.

Officer Valle's partner, Officer Martin Magallanes, arrived and examined the car on the street. Officer Magallanes noticed that its interior had been "ransacked" and a passenger side window had been smashed.

When Bayona next saw her car, it was at the police station. She identified the car and the compact discs found on defendant as belonging to her. The compact discs had been taken from the glove compartment. She also noted two bags were missing from the backseat of her car, containing cosmetics and jewelry. The bags were never recovered. A passenger window of her car was shattered, and the trunk lock was dented.<sup>3</sup>

## DISCUSSION

### ***1. Substantial Evidence Supports Defendant's Automobile Burglary Conviction***

Automobile burglary requires that the doors of a vehicle were locked at the time of a defendant's entry. (Pen. Code, § 459; *People v. Allen* (2001) 86 Cal.App.4th 909, 914.) To be convicted of automobile burglary, the defendant must unlawfully alter the vehicle's locked state in some fashion. (*In re James B.* (2003) 109 Cal.App.4th 862, 868, 870, 871.)

---

<sup>3</sup> Defendant neither testified nor presented other evidence in his defense.

Defendant contends the evidence is insufficient to support his conviction of burglarizing Bayona's car. Defendant argues the only reasonable inference from the record is someone else had committed the burglary prior to his appearance on the scene. According to defendant, the evidence shows that by the time he arrived, the passenger window already had been broken with a crowbar or other heavy tool, the missing bags had been removed from the backseat and the trunk had been pried open in a search for more valuables. While defendant admits to reaching inside the car to take the compact discs, he maintains that evidence alone is insufficient to overcome the absence of proof the car was in a locked state at the time of his theft.

To resolve this issue, "we review the entire record in the light most favorable to the judgment to determine whether it discloses evidence that is reasonable, credible, and of solid value such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citations.]" (*People v. Bolin* (1998) 18 Cal.4th 297, 331.) We resolve all conflicts in the evidence and questions of credibility in favor of the verdict, and indulge every reasonable inference the jury could draw from the evidence. (*People v. Autry* (1995) 37 Cal.App.4th 351, 358.) A reviewing court may not base its analysis of the sufficiency of the evidence drawn solely from speculation.

Substantial circumstantial evidence supports defendant's automobile burglary conviction, despite the fact no one saw him break the window of Bayona's car. The evidence was undisputed Bayona left her car in a locked state, the point of entry was a smashed window on the passenger side, and, within hours, defendant was found in possession of compact discs stolen from inside the car. "When, as here, a defendant is found in possession of property stolen in a burglary shortly after the burglary occurred, the corroborating evidence of the defendant's acts, conduct, or declarations tending to show his guilt need only be slight to sustain the burglary convictions. [Citations.]" (*People v. Mendoza* (2000) 24 Cal.4th 130, 176.) The corroborating evidence consisted of defendant's search through the trunk after the window had been smashed, and flight upon seeing the officer.

Whether defendant used some type of tool or a part of his body to shatter the window, the evidence strongly supports the reasonable inference defendant unlawfully altered the car's locked state to steal Bayona's property and therefore committed automobile burglary. In the absence of any evidence another person broke the window and entered the car, defendant's claim he simply reached inside the car after someone else had broken into it is speculative. After hearing all the evidence, observing all the witnesses and their demeanor, listening to closing arguments where all the discrepancies were discussed, and after being fully instructed on the law, the jury chose to believe the People's version of the facts and not those defendant would have had them believe. The jury did not act irrationally, as defendant maintains, in rejecting this defense theory at trial and concluding beyond a reasonable doubt that he was guilty of the offense.

## ***2. Defendant is Entitled to Additional Presentence Credit***

Defendant contends, the People acknowledge, and we agree he is entitled to additional presentence custody credit. The record shows the trial court awarded him 170 days of presentence custody credit, consisting of 148 actual days and 22 days of conduct credit. Apparently the trial court mistakenly believed automobile burglary and receiving stolen property are violent felonies under Penal Code section 667.5, subdivision (c), and therefore limited defendant's award of conduct credit to 15 percent of his actual days in custody pursuant to Penal Code section 2933.1, subdivision (c). However, because neither offense is a violent felony under the statute, defendant is entitled to the full amount of conduct credit as provided under Penal Code section 4019, resulting in 222 days of presentence custody credit (148 actual days and 74 days of conduct credit).

## **DISPOSITION**

The judgment is modified to reflect 222 days of presentence conduct credit (148 actual and 74 days of conduct credit). As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and forward it to the Department of Corrections and Rehabilitation.

NOT TO BE PUBLISHED

JACKSON, J.

We concur:

PERLUSS, P. J.

WOODS, J.